

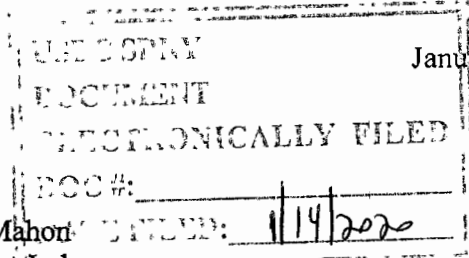


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MEMO ENDOCTR



January 8, 2020

Via ECF Filing

Hon. Colleen McMahon
Chief District Court Judge
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl St.
New York, NY 10007

Re: Securities and Exchange Commission v. Hafen, No. 19-cv-08234

Dear Chief Judge McMahon,

For the reason explained below, the parties seek to adjourn the Initial Pretrial Conference in this case, which is scheduled for January 17, 2020 [Dkt. 7]. This is the first request for an adjournment or extension. Both sides consent. No scheduled dates would be affected.

The above-captioned securities fraud case was filed by the Securities and Exchange Commission ("SEC") on September 4, 2019 [Dkt. 3]. The SEC alleges that E. Herbert Hafen ("Mr. Hafen"), an investment adviser, defrauded his investors by claiming he had access to a low-risk, guaranteed-return investment, and then using their money for his own purposes. [*Id.*] Mr. Hafen's answer is due on or about January 24, 2020. [*See* Dkt. 9, Waiver of the Service of Summons dated Nov. 25, 2019].

On September 4, 2019, Mr. Hafen was charged by Information with criminal offenses related to the same conduct at issue in the civil case. United States v. Hafen, No. 1:19-cr-00637-AKH (S.D.N.Y.) ["Crim. Dkt."]. He entered a guilty plea that same day [Crim. Dkt. minute entries dated 9/4/19]. His sentencing is scheduled for February 4, 2020 [Crim. Dkt. 15].

Mr. Hafen and the staff of the SEC have reached an agreement in principle to settle this civil case. The proposal represented by this agreement will now be presented to the Commissioners of the Securities and Exchange Commission for their consideration, consistent with the process for settling all SEC cases.

In order to preserve judicial and litigant resources, the parties jointly respectfully request that the Initial Pretrial Conference be canceled and that the Court instead impose a deadline by which the parties must file either settlement papers or a Civil Case Management Plan. The parties

1/14/2020
OK
Conference cancelled.
Colleen McMahon

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respectfully request that this deadline be set for a date on or after March 5, 2020. This schedule would allow the Commissioners to consider and decide on the proposed settlement.

Respectfully,

A handwritten signature in black ink, appearing to read 'Rachel E. Hershfang', with a long, sweeping horizontal line extending to the right.

Rachel E. Hershfang
Senior Trial Counsel

Cc:

E. Scott Schirick, Esq. (by ECF filing and email)

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